

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 328

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO HUMAN TRAFFICKING; PROVIDING FOR PROTECTION AND ASSISTANCE TO HUMAN TRAFFICKING VICTIMS; EXPANDING STATE ASSISTANCE; EXPANDING THE DUTIES OF THE TASK FORCE TO COMBAT HUMAN TRAFFICKING; INCLUDING HUMAN TRAFFICKING IN THE CRIME VICTIMS REPARATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 30, Article 52 NMSA 1978 is enacted to read:

"NEW MATERIAL] DEFINITIONS.--As used in Chapter 30, Article 52 NMSA 1978:

A. "human trafficking victim" means a person subjected to human trafficking by a person charged in New Mexico with the crime of human trafficking pursuant to Section 30-52-1 NMSA 1978; and

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1 B. "human trafficking victim advocate" means a
2 person provided through a nonprofit agency with expertise in
3 providing services for victims of crime."

4 Section 2. A new section of Chapter 30, Article 52 NMSA
5 1978 is enacted to read:

6 "[NEW MATERIAL] PROTECTION AND ASSISTANCE TO HUMAN
7 TRAFFICKING VICTIMS.--

8 A. A local law enforcement agency trained by the
9 task force to combat human trafficking shall develop a human
10 trafficking safety plan and submit the plan to the office of
11 the attorney general.

12 B. Upon identifying a human trafficking victim, the
13 local law enforcement agency shall contact a human trafficking
14 victim advocate on behalf of the victim immediately or as soon
15 as practicable.

16 C. A human trafficking victim advocate shall assist
17 the human trafficking victim in completing any documents for an
18 adjustment of immigration status and for applying for victim
19 certification pursuant to the federal Victims of Trafficking
20 and Violence Protection Act of 2000.

21 D. Local law enforcement or a representative of the
22 district attorney's office shall sign the documents presented
23 by the human trafficking victim or the human trafficking victim
24 advocate that are necessary for victim certification pursuant
25 to the federal Victims of Trafficking and Violence Protection

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1 Act of 2000, and shall cooperate with the victim or the victim
 2 advocate in providing other documents or information in their
 3 possession that would facilitate certification, unless
 4 otherwise prohibited by law."

5 Section 3. Section 30-52-2 NMSA 1978 (being Laws 2008,
 6 Chapter 17, Section 2) is amended to read:

7 "30-52-2. HUMAN TRAFFICKING--BENEFITS AND SERVICES FOR
 8 HUMAN TRAFFICKING VICTIMS.--[A.] Human trafficking victims
 9 found in the state shall be eligible for benefits and services
 10 from the state until the victim qualifies for benefits and
 11 services authorized by the federal Victims of Trafficking and
 12 Violence Protection Act of 2000; provided that the victim
 13 cooperates in the investigation or prosecution of the person
 14 charged with the crime of human trafficking. If a victim is
 15 unable to cooperate due to physical or psychological trauma,
 16 the victim shall still be eligible for benefits and services.

17 Benefits and services shall be provided to eligible human
 18 trafficking victims regardless of immigration status and may
 19 include:

- 20 [~~1~~] A. case management;
- 21 [~~2~~] B. emergency temporary housing;
- 22 [~~3~~] C. health care;
- 23 [~~4~~] D. mental health counseling;
- 24 [~~5~~] E. drug addiction screening and treatment;
- 25 [~~6~~] F. language interpretation, translation

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1 services and English language instruction;

2 [~~(7)~~] G. job training, job placement assistance and
3 post-employment services for job retention;

4 [~~(8)~~] H. services to assist the victim and the
5 victim's family members; or

6 [~~(9)~~] I. other general assistance services and
7 benefits as determined by the children, youth and families
8 department or the human services department.

9 [~~B. As used in this section, "human trafficking~~
10 ~~victim" means a person subjected to human trafficking by a~~
11 ~~person charged in New Mexico with the crime of human~~
12 ~~trafficking.]"~~

13 Section 4. Section 30-52-3 NMSA 1978 (being Laws 2008,
14 Chapter 17, Section 3) is amended to read:

15 "30-52-3. [~~TEMPORARY PROVISION~~] TASK FORCE TO COMBAT
16 HUMAN TRAFFICKING--MEMBERSHIP--DUTIES.--

17 A. The "task force to combat human trafficking" is
18 created. The task force shall consist of the following
19 members:

20 (1) the attorney general or the attorney
21 general's designee;

22 (2) the secretary of health or the secretary's
23 designee;

24 (3) the secretary of children, youth and
25 families or the secretary's designee;

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1 (4) the secretary of human services or the
 2 secretary's designee;

3 [~~(4)~~] (5) the secretary of public safety or
 4 the secretary's designee;

5 [~~(5)~~] (6) the chief public defender or the
 6 chief public defender's designee;

7 [~~(6)~~] (7) a representative from the New Mexico
 8 district attorney's association;

9 [~~(7)~~] (8) representatives of local law
 10 enforcement and state police from critical geographic areas of
 11 New Mexico affected by immigrant issues and human trafficking
 12 problems; and

13 [~~(8)~~] (9) representatives from organizations
 14 that provide services to victims of human trafficking,
 15 including immigrants and immigrant victims of sexual assault
 16 and domestic violence.

17 B. The task force shall:

18 (1) collaborate with the United States
 19 attorney for the district of New Mexico, the United States
 20 border patrol and the United States immigration and customs
 21 enforcement to carry out the duties of the task force;

22 (2) collect and organize data on the nature
 23 and extent of human trafficking in New Mexico;

24 (3) collect and organize data on the
 25 interrelationship between human trafficking and the incidence

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1 of disabilities and determine the availability of disabilities
2 services to human trafficking victims;

3 [~~3~~] (4) monitor and evaluate the
4 implementation of [~~this 2008 act~~] Chapter 30, Article 52 NMSA
5 1978, including the progress of federal, state and local law
6 enforcement agencies in preventing human trafficking,
7 protecting and providing assistance to victims of human
8 trafficking and prosecuting human trafficking offenders;

9 [~~4~~] (5) develop and conduct training for law
10 enforcement personnel and [~~victims~~] victim services providers
11 to identify victims of human trafficking;

12 (6) provide law enforcement agencies with
13 contact information for human trafficking victim advocates;

14 [~~5~~] (7) examine the training protocols
15 developed by federal, state and local law enforcement agencies
16 related to dealing with human trafficking victims and
17 offenders;

18 [~~6~~] (8) assist in coordinating federal,
19 state and local government agencies in the implementation of
20 [~~this 2008 act~~] Chapter 30, Article 52 NMSA 1978;

21 [~~7~~] (9) implement a media awareness campaign
22 in communities affected by human trafficking;

23 (10) survey community resources to provide
24 information to local law enforcement and human trafficking
25 victim advocates, develop a safety plan template for local law

1 enforcement agencies and update the survey and template as
 2 needed;

3 [~~8~~] (11) develop recommendations on how to
 4 strengthen state and local efforts to prevent human
 5 trafficking, protect and assist human trafficking victims and
 6 prosecute human trafficking offenders; and

7 [~~9~~] (12) submit an annual report of its
 8 activities, findings and recommendations, including any
 9 proposed legislation, in December of each year to the governor
 10 and the legislature.

11 C. The chair of the task force shall be the
 12 attorney general or the attorney general's designee, and the
 13 task force shall meet at the call of the chair.

14 D. The public members of the task force are
 15 entitled to per diem and mileage as provided in the Per Diem
 16 and Mileage Act and shall receive no other perquisite,
 17 compensation or allowance.

18 E. The attorney general shall provide the staff for
 19 the task force.

20 F. The task force to combat human trafficking is
 21 terminated on July 1, 2016."

22 Section 5. Section 31-22-8 NMSA 1978 (being Laws 1981,
 23 Chapter 325, Section 8, as amended) is amended to read:

24 "31-22-8. CRIMES ENUMERATED.--

25 A. The crimes to which the Crime Victims Reparation

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1 Act applies and for which reparation to victims may be made are
2 the following enumerated offenses and all other offenses in
3 which any enumerated offense is necessarily included:

- 4 (1) arson resulting in bodily injury;
- 5 (2) aggravated arson;
- 6 (3) aggravated assault or aggravated battery;
- 7 (4) dangerous use of explosives;
- 8 (5) negligent use of a deadly weapon;
- 9 (6) murder;
- 10 (7) voluntary manslaughter;
- 11 (8) involuntary manslaughter;
- 12 (9) kidnapping;
- 13 (10) criminal sexual penetration;
- 14 (11) criminal sexual contact of a minor;
- 15 (12) homicide by vehicle or great bodily
16 injury by vehicle, as provided in Section 66-8-101 NMSA 1978;
- 17 (13) abandonment or abuse of a child;
- 18 (14) aggravated indecent exposure, as provided
19 in Section 30-9-14.3 NMSA 1978; [~~and~~]
- 20 (15) aggravated stalking, as provided in
21 Section 30-3A-3.1 NMSA 1978; and
- 22 (16) human trafficking.

23 B. No award shall be made for any loss or damage to
24 property."

25 Section 6. EFFECTIVE DATE.--The effective date of the

1 provisions of this act is July 1, 2009.

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